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36 CFR Ch. II (7–1–13 Edition)

competitive applications for a written authorization.

Responsible Official. The Forest Service line officer who has the delegated authority to make and implement a decision that may be appealed under this part.

Responsive statement. The document filed by the Responsible Official with the Appeal Deciding Officer that addresses the issues raised and relief requested in an appeal.

Revocation. The cessation, in whole or in part, of a written authorization, other than a grazing permit or an instrument for the disposal of mineral materials, by action of Responsible Official before the end of the specified period of occupancy or use.

Solicited applicant. An individual or entity that has submitted a competitive application in response to a prospectus.

Suspension. A temporary revocation or cancellation of a written authorization.

Termination. The cessation of a written authorization by operation of law or by operation of a fixed or agreed-upon condition, event, or time as specified in the authorization, which does not require a decision by a Responsible Official to take effect.

Written authorization. A term grazing permit, plan of operations, special use authorization, mineral material contract or permit, or other type of written instrument issued by the Forest Service or a lease or permit for leasable minerals issued by the U.S. Department of the Interior that authorizes the occupancy or use of National Forest System lands or resources and specifies the terms and conditions under which the occupancy or use may occur.

§214.3 Parties to an appeal.

Parties to an appeal under this part are limited to the holder, operator, or solicited applicants who are directly affected by an appealable decision, intervenors, and the Responsible Official.

§214.4 Decisions that are appealable.

To be appealable under this part, a decision must be issued by a Responsible Official in writing and must fall into one of the following categories:

(a) *Livestock grazing.* (1) Modification of a term grazing permit issued under 36 CFR part 222, subpart A. Issuance of annual operating instructions does not constitute a permit modification and is not an appealable decision;

(2) Suspension or cancellation, other than cancellation resulting from the permittee's waiver to the United States, of a term grazing permit issued under 36 CFR part 222, subpart A;

(3) Denial of reauthorization of livestock grazing under a term grazing permit if the holder files an application for a new permit before the existing permit expires; or

(4) Denial of a term grazing permit to a solicited applicant under 36 CFR part 222, subpart C.

(b) *Minerals.* (1) Approval or denial of an initial, modified, or supplemental plan of operations or operating plan; requirement of an increase in bond coverage; requirement of measures to avoid irreparable injury, loss, or damage to surface resources pending modification of a plan of operations or operating plan; or issuance of a notice of noncompliance pursuant to 36 CFR part 228, subpart A or D, or part 292, subpart D, F, or G;

(2) Approval or denial of an operating plan, issuance of a notice of noncompliance, or extension, suspension, or cancellation, other than cancellation by mutual agreement, for or of contracts, permits, or prospecting permits for mineral materials issued under 36 CFR part 228, subpart C;

(3) Approval or denial of a surface use plan of operations, request to supplement a surface use plan of operations, suspension of oil and gas operations, or issuance of a notice of noncompliance pursuant to 36 CFR part 228, subpart E;

(4) Consent or denial of consent to the U.S. Department of the Interior's administration of previously issued leases or permits for leasable minerals other than oil and gas resources;

(5) Suspension or revocation of an operating plan for Federal lands within the Sawtooth National Recreation Area pursuant to 36 CFR part 292, subpart D;

(6) Suspension of locatable mineral operations on National Forest System lands within the Hells Canyon National

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Recreation Area pursuant to 36 CFR part 292, subpart F;

(7) Suspension of locatable mineral operations on National Forest System lands within the Smith River National Recreation Area or approval of an initial or amended operating plan for exercise of outstanding mineral rights on National Forest System lands within the Smith River National Recreation Area pursuant to 36 CFR part 292, subpart G;

(8) Except as provided in paragraph (7), determinations of the acceptability of an initial or amended operating plan for exercise of outstanding mineral rights on National Forest System lands; or

(9) Determinations of the acceptability of an initial or amended operating plan for exercise of reserved mineral rights located on National Forest System lands.

(c) *Special uses.* (1) Modification, suspension, or revocation of a special use authorization, other than acceptance of an operating plan, including:

(i) A special use authorization issued under 36 CFR part 251, subpart B or D, other than modification, suspension or revocation of a noncommercial group use permit, suspension or revocation of an easement issued pursuant to 36 CFR 251.53(e) or 251.53(l), or revocation with the consent of the holder;

(ii) A special use authorization issued under 36 CFR part 212, subpart A, for ingress and egress to private lands that are intermingled with or adjacent to National Forest System lands;

(iii) A special use authorization issued under 36 CFR part 251, subpart A, that authorizes the exercise of rights reserved in conveyances to the United States;

(iv) A permit and occupancy agreement issued under 36 CFR 213.3 for national grasslands and other lands administered under Title III of the Bankhead-Jones Farm Tenant Act;

(v) A permit issued under 36 CFR 293.13 for access to valid occupancies entirely within a wilderness in the National Forest System.

(vi) A permit issued under the Archaeological Resources Protection Act of 1979 and 36 CFR part 296 for excavation or removal of archaeological resources; and

(vii) A special use authorization governing surface use associated with the exercise of outstanding mineral rights;

(2) Denial of a special use authorization to a solicited applicant based on the process used to select a successful applicant;

(3) Implementation of new land use fees for a special use authorization, other than:

(i) Revision or replacement of a land use fee system or schedule that is implemented through public notice and comment; and

(ii) Annual land use fee adjustments based on an inflation factor that are calculated under an established fee system or schedule in accordance with the terms and conditions of a written authorization;

(4) Assignment of a performance rating that affects reissuance or extension of a special use authorization; or

(5) Denial of renewal of a special use authorization if it specifically provides for renewal and if the holder requests renewal of the authorization before it expires.

(d) *Other land uses.* Denial or revocation of a certification of compliance issued under 36 CFR part 292, subpart C, related to the use, subdivision, and development of privately owned property within the boundaries of the Sawtooth National Recreation Area.

§214.5 Decisions that are not appealable.

Holders, operators, and solicited applicants may not appeal under this part any decisions issued by a Responsible Official that are not expressly set forth in §214.4.

§214.6 Notice of an appealable decision.

(a) The Responsible Official shall promptly give written notice of decisions subject to appeal under this part to the affected holder, operator, or solicited applicants and to any holder of a similar written authorization who has made a written request to be notified of a specific decision.

(b) If the decision is appealable, the notice must specify the contents of an appeal, the name and mailing address of the Appeal Deciding Officer, and the filing deadline. The notice shall also